

A bill for an act

relating to public safety; modifying implied consent, driving while impaired, and ignition interlock provisions; amending Minnesota Statutes 2008, sections 169A.52, subdivisions 3, 4; 169A.54, subdivisions 2, 5; 169A.55, by adding a subdivision; 169A.60, subdivision 1; 171.09; 171.30, subdivisions 1, 2a, 4; 171.306, as amended; 609.131, subdivision 2; Minnesota Statutes 2009 Supplement, sections 169A.275, subdivision 7; 169A.54, subdivision 1; repealing Minnesota Statutes 2008, sections 169A.54, subdivision 11; 169A.55, subdivision 1; 171.30, subdivision 2c; 171.305, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, 11.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2009 Supplement, section 169A.275, subdivision 7, is amended to read:

Subd. 7. **Exception.** ~~(a)~~ A judge is not required to sentence a person as provided in ~~this section~~ subdivisions 1 to 4 if the judge requires the person as a condition of probation to drive only motor vehicles equipped with an ignition interlock device meeting the standards described in section 171.306.

~~(b) This subdivision expires July 1, 2011.~~

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 2. Minnesota Statutes 2008, section 169A.52, subdivision 3, is amended to read:

Subd. 3. **Test refusal; license revocation.** (a) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired), and that the person refused to submit to a test, the commissioner shall revoke the person's license or permit to drive, or nonresident operating privilege, ~~for a period of~~

H.F. No. 3106, as introduced - 86th Legislative Session (2009-2010) [10-4314]

~~one year~~ even if a test was obtained pursuant to this section after the person refused to submit to testing. The commissioner shall revoke the license, permit, or nonresident operating privilege:

(1) for a person with no qualified prior impaired driving incidents within the past ten years, for a period of not less than one year;

(2) for a person under the age of 21 years and with no qualified prior impaired driving incidents within the past ten years, for a period of not less than one year;

(3) for a person with one qualified prior impaired driving incident within the past ten years, or two qualified prior impaired driving incidents, for a period of not less than two years;

(4) for a person with two qualified prior impaired driving incidents within the past ten years, or three qualified prior impaired driving incidents, for a period of not less than three years;

(5) for a person with three qualified prior impaired driving incidents within the past ten years, for a period of not less than four years; or

(6) for a person with four or more qualified prior impaired driving incidents, for a period of not less than six years.

(b) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol in violation of section 169A.20 (driving while impaired), and that the person refused to submit to a test, the commissioner shall disqualify the person from operating a commercial motor vehicle and shall revoke the person's license or permit to drive or nonresident operating privilege according to the federal regulations adopted by reference in section 171.165, subdivision 2.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 3. Minnesota Statutes 2008, section 169A.52, subdivision 4, is amended to read:

Subd. 4. **Test failure; license revocation.** (a) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired) and that the person submitted to a test and the test results indicate an alcohol concentration of 0.08 or more or the presence of a controlled substance listed in schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols, then the commissioner shall revoke the person's license or permit to drive, or nonresident operating privilege:

H.F. No. 3106, as introduced - 86th Legislative Session (2009-2010) [10-4314]

(1) for a period of ~~90~~ not less than 180 days, or, if the test results indicate an alcohol concentration of 0.15 or more, not less than one year;

(2) if the person is under the age of 21 years, for a period of ~~six months~~ not less than 180 days or, if the test results indicate an alcohol concentration of 0.15 or more, not less than one year;

(3) for a person with ~~a~~ one qualified prior impaired driving incident within the past ten years, or two qualified prior impaired driving incidents, for a period of 180 days not less than two years; or

~~(4) if the test results indicate an alcohol concentration of 0.20 or more, for twice the applicable period in clauses (1) to (3);~~ for a person with two qualified prior impaired driving incidents within the past ten years, or three qualified prior impaired driving incidents, for a period of not less than three years;

(5) for a person with three qualified prior impaired driving incidents within the past ten years, for a period of not less than four years; or

(6) for a person with four or more qualified prior impaired driving incidents, for a period of not less than six years.

(b) On certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol and that the person submitted to a test and the test results indicated an alcohol concentration of 0.04 or more, the commissioner shall disqualify the person from operating a commercial motor vehicle under section 171.165 (commercial driver's license disqualification).

(c) If the test is of a person's blood or urine by a laboratory operated by the Bureau of Criminal Apprehension, or authorized by the bureau to conduct the analysis of a blood or urine sample, the laboratory may directly certify to the commissioner the test results, and the peace officer shall certify to the commissioner that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 and that the person submitted to a test. Upon receipt of both certifications, the commissioner shall undertake the license actions described in paragraphs (a) and (b).

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 4. Minnesota Statutes 2009 Supplement, section 169A.54, subdivision 1, is amended to read:

Subdivision 1. **Revocation periods for DWI convictions.** Except as provided in subdivision 7, the commissioner shall revoke the driver's license of a person convicted

H.F. No. 3106, as introduced - 86th Legislative Session (2009-2010) [10-4314]

of violating section 169A.20 (driving while impaired) or an ordinance in conformity with it, as follows:

(1) for an offense under section 169A.20, subdivision 1 (driving while impaired crime); ~~not less than 30~~ 90 days;

(2) for an offense under section 169A.20, subdivision 2 (refusal to submit to chemical test crime); ~~not less than 90 days~~ one year;

(3) for an offense occurring within ten years of a qualified prior impaired driving incident; ~~or occurring after two qualified prior impaired driving incidents,~~

~~(i) if the current conviction is for a violation of section 169A.20, subdivision 1, 1a, 1b, or 1c, not less than 180 days~~ two years and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70 (chemical use assessments); ~~or~~

~~(ii) if the current conviction is for a violation of section 169A.20, subdivision 2, not less than one year and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70;~~

(4) for an offense occurring within ten years of the first of two qualified prior impaired driving incidents; ~~or occurring after three qualified prior impaired driving incidents,~~ not less than one year three years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established ~~in accordance with~~ according to standards established by the commissioner; ~~or~~

(5) for an offense occurring within ten years of the first of three ~~or more~~ qualified prior impaired driving incidents; ~~not less than two~~ four years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established ~~in accordance with~~ according to standards established by the commissioner; or

(6) for an offense occurring after four or more qualified prior impaired driving incidents, not less than six years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established according to standards established by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 5. Minnesota Statutes 2008, section 169A.54, subdivision 2, is amended to read:

Subd. 2. **Driving while impaired by person under age 21.** If the person convicted of violating section 169A.20 (driving while impaired) is under the age of 21 years at the time of the violation, the commissioner shall revoke the offender's driver's license or operating privileges for a period of ~~six months~~ not less than 180 days or for the appropriate

5.1 period of time under subdivision 1, clauses (1) to ~~(5)~~ (6), for the offense committed,
5.2 whichever is the ~~greatest~~ longer period.

5.3 **EFFECTIVE DATE.** This section is effective July 1, 2011.

5.4 Sec. 6. Minnesota Statutes 2008, section 169A.54, subdivision 5, is amended to read:

5.5 Subd. 5. **Violations involving alcohol concentration of ~~0.20~~ 0.15 or more.** If the
5.6 person has no qualified prior impaired driving incidents within the past ten years and is
5.7 convicted of violating section 169A.20 (driving while impaired) while having an alcohol
5.8 concentration of ~~0.20~~ 0.15 or more as measured at the time, or within two hours of the
5.9 time, of the offense, the commissioner shall revoke the person's driver's license for ~~twice~~
5.10 the period of time otherwise provided for in this section not less than one year.

5.11 **EFFECTIVE DATE.** This section is effective July 1, 2011.

5.12 Sec. 7. Minnesota Statutes 2008, section 169A.55, is amended by adding a subdivision
5.13 to read:

5.14 Subd. 4. **Reinstatement of driving privileges; multiple incidents.** (a) A person
5.15 whose driver's license has been canceled or denied as a result of three or more qualified
5.16 impaired driving incidents shall not be eligible for reinstatement of driving privileges
5.17 without an ignition interlock restriction until the person:

5.18 (1) has completed rehabilitation according to rules adopted by the commissioner or
5.19 been granted a variance from the rules by the commissioner; and

5.20 (2) has submitted verification of abstinence from alcohol and controlled substances,
5.21 as evidenced by the person's use of an ignition interlock device or other chemical
5.22 monitoring device approved by the commissioner.

5.23 (b) The verification of abstinence must show that the person has abstained from the
5.24 use of alcohol and controlled substances for a period of not less than:

5.25 (1) three years, for a person whose driver's license was canceled or denied for an
5.26 offense occurring within ten years of the first of two qualified prior impaired driving
5.27 incidents, or occurring after three qualified prior impaired driving incidents;

5.28 (2) four years, for a person whose driver's license was canceled or denied for an
5.29 offense occurring within ten years of the first of three qualified prior impaired driving
5.30 incidents; or

5.31 (3) six years, for a person whose driver's license was canceled or denied for an
5.32 offense occurring after four or more qualified prior impaired driving incidents.

(c) The commissioner shall establish performance standards and a process for certifying chemical monitoring devices. The standards and procedures are not rules and are exempt from chapter 14, including section 14.386.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 8. Minnesota Statutes 2008, section 169A.60, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given in this subdivision.

(b) "Family or household member" has the meaning given in section 169A.63, subdivision 1.

(c) "Motor vehicle" means a self-propelled motor vehicle other than a motorboat in operation or an off-road recreational vehicle.

(d) "Plate impoundment violation" includes:

(1) a violation of section 169A.20 (driving while impaired) or 169A.52 (license revocation for test failure or refusal), ~~or a conforming an ordinance from this state or a conforming statute or ordinance from another state in conformity with either of those sections~~, that results in the revocation of a person's driver's license or driving privileges, within ten years of a qualified prior impaired driving incident;

(2) a refusal to submit to a chemical test under section 169A.52 or a violation of section 169A.20, subdivision 2, or an ordinance from this state or a statute or ordinance from another state in conformity with either of those sections, that results in the revocation of a person's driver's license or driving privileges;

(3) a license disqualification under section 171.165 (commercial driver's license disqualification) resulting from a violation of section 169A.52 within ten years of a qualified prior impaired driving incident;

~~(3)~~ (4) a violation of section 169A.20 or 169A.52 while having an alcohol concentration of ~~0.20~~ 0.15 or more as measured at the time, or within two hours of the time, of the offense;

~~(4)~~ (5) a violation of section 169A.20 or 169A.52 while having a child under the age of 16 in the vehicle if the child is more than 36 months younger than the offender; ~~and or~~

~~(5)~~ (6) a violation of section 171.24 (driving without valid license) by a person whose driver's license or driving privileges have been canceled or denied under section 171.04, subdivision 1, clause (10) (persons not eligible for driver's license, inimical to public safety).

(e) "Violator" means a person who was driving, operating, or in physical control of the motor vehicle when the plate impoundment violation occurred.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 9. Minnesota Statutes 2008, section 171.09, is amended to read:

171.09 DRIVING RESTRICTIONS; AUTHORITY, VIOLATIONS.

Subdivision 1. **Authority; violations.** (a) The commissioner, when good cause appears, may impose restrictions suitable to the licensee's driving ability or other restrictions applicable to the licensee as the commissioner may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) Pursuant to Code of Federal Regulations, title 49, section 383.95, if an applicant for a commercial driver's license either does not successfully complete the air brake component of the knowledge test, or does not successfully complete the skills test in a vehicle equipped with air brakes as such tests are prescribed in Code of Federal Regulations, title 49, part 384, the department shall indicate on the class C, class B, or class A commercial driver's license, if issued, that the individual is restricted from operating a commercial motor vehicle equipped with air brakes.

(c) Upon receiving satisfactory evidence of any violation of the restrictions on the license, the commissioner may suspend or revoke the license. A license suspension under this section is subject to section 171.18, subdivisions 2 and 3.

(d) A person who drives, operates, or is in physical control of a motor vehicle while in violation of the restrictions imposed in a restricted driver's license issued to that person under this section is guilty of a crime as follows:

(1) if the restriction relates to the possession or consumption of alcohol or controlled substances, the person is guilty of a gross misdemeanor; or

(2) if the restriction relates to another matter, the person is guilty of a misdemeanor.

(e) It is a misdemeanor for a person who holds a restricted license issued under section 171.306 to drive, operate, or be in physical control of any motor vehicle that is not equipped with a functioning ignition interlock device certified by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 10. Minnesota Statutes 2008, section 171.30, subdivision 1, is amended to read:

Subdivision 1. **Conditions of issuance.** (a) In any case where a person's license has been suspended under section 171.18, 171.173, or 171.186~~, or~~₂, or revoked under section 169.792~~;~~₂, 169.797~~;~~₂, 169A.52, ~~169A.54,~~ subdivision 3, paragraph (a), clause (4), (5), or (6), or subdivision 4, paragraph (a), clause (4), (5), or (6); 171.17~~;~~₂ or 171.172~~;~~₂ or revoked, canceled, or denied under section 169A.54, subdivision 1, clause (4), (5), or (6),

the commissioner may issue a limited license to the driver including under the following conditions:

(1) if the driver's livelihood or attendance at a chemical dependency treatment or counseling program depends upon the use of the driver's license;

(2) if the use of a driver's license by a homemaker is necessary to prevent the substantial disruption of the education, medical, or nutritional needs of the family of the homemaker; or

(3) if attendance at a postsecondary institution of education by an enrolled student of that institution depends upon the use of the driver's license.

(b) The commissioner in issuing a limited license may impose such conditions and limitations as in the commissioner's judgment are necessary to the interests of the public safety and welfare including reexamination as to the driver's qualifications. The license may be limited to the operation of particular vehicles, to particular classes and times of operation, and to particular conditions of traffic. The commissioner may require that an applicant for a limited license affirmatively demonstrate that use of public transportation or carpooling as an alternative to a limited license would be a significant hardship.

(c) For purposes of this subdivision, "homemaker" refers to the person primarily performing the domestic tasks in a household of residents consisting of at least the person and the person's dependent child or other dependents.

(d) The limited license issued by the commissioner shall clearly indicate the limitations imposed and the driver operating under the limited license shall have the license in possession at all times when operating as a driver.

(e) In determining whether to issue a limited license, the commissioner shall consider the number and the seriousness of prior convictions and the entire driving record of the driver and shall consider the number of miles driven by the driver annually.

(f) If the person's driver's license or permit to drive has been revoked under section 169.792 or 169.797, the commissioner may only issue a limited license to the person after the person has presented an insurance identification card, policy, or written statement indicating that the driver or owner has insurance coverage satisfactory to the commissioner of public safety. The commissioner of public safety may require the insurance identification card provided to satisfy this subdivision be certified by the insurance company to be noncancelable for a period not to exceed 12 months.

(g) The limited license issued by the commissioner to a person under section 171.186, subdivision 4, must expire 90 days after the date it is issued. The commissioner must not issue a limited license to a person who previously has been issued a limited license under section 171.186, subdivision 4.

H.F. No. 3106, as introduced - 86th Legislative Session (2009-2010) [10-4314]

(h) The commissioner shall not issue a limited driver's license to any person described in section 171.04, subdivision 1, clause (6), (7), (8), ~~(10)~~, (11), or (14).

(i) The commissioner shall not issue a class A, class B, or class C limited license.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 11. Minnesota Statutes 2008, section 171.30, subdivision 2a, is amended to read:

Subd. 2a. **Other waiting periods.** Notwithstanding subdivision 2, a limited license shall not be issued for a period of:

~~(1) 15 days, to a person whose license or privilege has been revoked or suspended for a violation of section 169A.20, sections 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections;~~

~~(2) 90 30 days, to a person who submitted to testing under sections 169A.50 to 169A.53 if the person's license or privilege has been revoked or, suspended, canceled, or denied for a second third violation within ten years or a third fourth or subsequent violation of section 169A.20, sections 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either one of those sections;~~

~~(3) 180 days, to a person who refused testing under sections 169A.50 to 169A.53 if the person's license or privilege has been revoked or suspended for a second violation within ten years or a third or subsequent violation of sections 169A.20, 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections; or~~

~~(4) (2)~~ one year, to a person whose license or privilege has been revoked or suspended for committing manslaughter resulting from the operation of a motor vehicle, committing criminal vehicular homicide or injury under section 609.21, or violating a statute or ordinance from another state in conformity with either of those offenses.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 12. Minnesota Statutes 2008, section 171.30, subdivision 4, is amended to read:

Subd. 4. **Penalty.** A person who violates a condition or limitation of a limited license issued under subdivision 1 or fails to have the license in immediate possession at all times when operating a motor vehicle is guilty of a misdemeanor. In addition, except as otherwise provided in the ignition interlock program under section 171.306, a person who violates a condition or limitation of a limited license may not operate a motor vehicle for the remainder of the period of suspension or revocation, or 30 days, whichever is longer.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 13. Minnesota Statutes 2008, section 171.306, as amended by Laws 2009, chapter 29, sections 2 and 3, is amended to read:

171.306 IGNITION INTERLOCK DEVICE ~~PILOT PROJECT~~ PROGRAM.

Subdivision 1. ~~Pilot project established; reports~~ **Definitions.** ~~The commissioner shall conduct a statewide two-year ignition interlock device pilot project as provided in this section. The pilot project must begin on July 1, 2009, and continue until June 30, 2011. The commissioner shall submit a preliminary report by September 30, 2010, and a final report by September 30, 2011, to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over criminal justice policy and funding. The reports must evaluate the successes and failures of the pilot project, provide information on participation rates, and make recommendations on continuing the project.~~ (a) As used in this section, the terms in this subdivision have the meanings given them.

(b) "Ignition interlock device" or "device" means equipment that is designed to measure breath alcohol concentration and to prevent a motor vehicle's ignition from being started by a person whose breath alcohol concentration measures 0.02 or higher on the equipment.

(c) "Program participant" means a person whose driver's license has been revoked, canceled, or denied under section 169A.52 or 169A.54, and who has qualified to take part in the ignition interlock program under this section.

(d) "Qualified prior impaired driving incident" has the meaning given in section 169A.03, subdivision 22.

Subd. 2. **Performance standards; certification.** ~~The commissioner shall determine appropriate~~ establish performance standards and a ~~certification~~ process for ~~ignition interlock~~ certifying devices for used in the ~~pilot project~~. ~~Only devices certified by the commissioner as meeting the performance standards may be used in the pilot project.~~ ignition interlock program. The manufacturer of a device must apply annually for certification of the device by submitting the form prescribed by the commissioner. The commissioner shall require manufacturers of certified devices to provide device installation, servicing, and monitoring to indigent program participants at a discounted rate, according to the standards established by the commissioner.

Subd. 3. ~~Pilot project components~~ **Program requirements.** (a) ~~Under the pilot project, the commissioner shall issue a driver's license to an individual whose driver's license has been revoked under chapter 169A for an impaired driving incident if the person qualifies under this section and agrees to all of the conditions of the project. The commissioner shall establish guidelines for participation in the ignition interlock program.~~

H.F. No. 3106, as introduced - 86th Legislative Session (2009-2010) [10-4314]

A person who seeks to participate in the program shall sign a written acknowledgment that the person has received, reviewed, and agreed to abide by the program guidelines.

~~(b) The commissioner must denote the person's driver's license enter a notation on a person's driving record to indicate that the person's participation in the person is a program participant. The license must authorize the person to drive only vehicles having functioning ignition interlock devices conforming with the requirements of subdivision 2.~~

~~(c) Notwithstanding any statute or rule to the contrary, the commissioner has authority to and shall determine the appropriate period for which a person participating in the ignition interlock pilot program shall be subject to this program, and when the person is eligible to be issued: A person under the age of 18 years is not eligible to be a program participant.~~

~~(1) a limited driver's license subject to the ignition interlock restriction;~~

~~(2) full driving privileges subject to the ignition interlock restriction; and~~

~~(3) a driver's license without an ignition interlock restriction.~~

(d) A program participant shall pay costs associated with an ignition interlock device on every motor vehicle that the participant operates or intends to operate.

(e) A ~~person participating in this pilot project~~ program participant shall agree to participate in any treatment recommended by in a chemical use assessment report.

~~(e) The commissioner shall determine guidelines for participation in the project. A person participating in the project shall sign a written agreement accepting these guidelines and agreeing to comply with them.~~

~~(f) It is a misdemeanor for a person who is licensed under this section for driving a vehicle equipped with an ignition interlock device to drive, operate, or be in physical control of a motor vehicle other than a vehicle properly equipped with an~~ A program participant shall bring the device-equipped motor vehicle or vehicles operated by the program participant to an approved service provider for device calibration and servicing according to the schedule established by the commissioner and as indicated by the ignition interlock device.

Subd. 4. **Issuance of restricted license.** (a) The commissioner shall issue a class D driver's license, subject to the applicable limitations and restrictions of this section, to a program participant who meets the requirements of this section and the program guidelines. The commissioner shall not issue a license unless the program participant has provided satisfactory proof that a certified ignition interlock device has been installed on the participant's motor vehicle at an installation service center designated by the device's manufacturer. A license issued under authority of this section must contain a restriction prohibiting the program participant from driving, operating, or being in physical control of

12.1 any motor vehicle not equipped with a functioning ignition interlock device certified by
12.2 the commissioner.

12.3 (b) A program participant whose driver's license has been revoked under section
12.4 169A.52, subdivision 3, paragraph (a), clause (1) or (2), or subdivision 4, paragraph (a),
12.5 clause (1) or (2), or section 169A.54, subdivision 1, clause (1) or (2), may apply, after 15
12.6 days of the revocation period have elapsed, for conditional reinstatement of the driver's
12.7 license, subject to the ignition interlock restriction.

12.8 (c) A program participant whose driver's license has been revoked under section
12.9 169A.52, subdivision 3, paragraph (a), clause (3), or subdivision 4, paragraph (a),
12.10 clause (3), or section 169A.54, subdivision 1, clause (3), may apply, after 30 days of
12.11 the revocation period have elapsed, for conditional reinstatement of the driver's license,
12.12 subject to the ignition interlock restriction.

12.13 (d) A program participant whose driver's license has been revoked, canceled, or
12.14 denied under section 169A.52, subdivision 3, paragraph (a), clause (4), (5), or (6), or
12.15 subdivision 4, paragraph (a), clause (4), (5), or (6), or section 169A.54, subdivision 1,
12.16 clause (4), (5), or (6), may apply for a limited license, subject to the ignition interlock
12.17 restriction, if the program participant is enrolled in a licensed chemical dependency
12.18 treatment or rehabilitation program as recommended in a chemical use assessment, and
12.19 if the participant meets the waiting period and other applicable requirements of section
12.20 171.30. After completing a licensed chemical dependency treatment or rehabilitation
12.21 program and one year of limited license use without violating the ignition interlock
12.22 restriction, the conditions of limited license use, or program guidelines, the participant
12.23 may apply for conditional reinstatement of the driver's license, subject to the ignition
12.24 interlock restriction. If the program participant's ignition interlock device subsequently
12.25 registers a positive breath alcohol concentration of 0.02 or higher, the commissioner shall
12.26 cancel the driver's license, and the program participant may apply for another limited
12.27 license according to this paragraph, except that no waiting period shall apply.

12.28 (e) Notwithstanding any statute or rule to the contrary, the commissioner has
12.29 authority to determine when a program participant is eligible for restoration of full driving
12.30 privileges, except that the commissioner shall not reinstate full driving privileges until the
12.31 program participant has met all applicable prerequisites for reinstatement under section
12.32 169A.55 and until the program participant's device has registered no positive breath
12.33 alcohol concentrations of 0.02 or higher during the preceding 90 days.

12.34 **Subd. 5. Penalties; program violations.** (a) If a program participant tampers
12.35 with, circumvents, or bypasses a device; drives, operates, or exercises physical control
12.36 over a motor vehicle not equipped with a device certified by the commissioner; violates a

H.F. No. 3106, as introduced - 86th Legislative Session (2009-2010) [10-4314]

condition of a limited license issued under subdivision 4 and section 171.30; or violates the program guidelines of subdivision 2, the commissioner shall extend the person's revocation period under section 169A.52 or 169A.54 by:

(1) 180 days for a first violation;

(2) one year for a second violation; or

(3) 545 days for a third and each subsequent violation.

(b) Notwithstanding paragraph (a), the commissioner may terminate participation in the program by any person when, in the commissioner's judgment, termination is necessary to the interests of public safety and welfare. In the event of termination, the commissioner shall not reduce the applicable revocation period under section 169A.52 or 169A.54 by the amount of time during which the person possessed a limited or restricted driver's license issued under the authority of subdivision 4.

Subd. 6. **Penalties; tampering.** (a) A person who knowingly lends, rents, or leases a motor vehicle that is not equipped with a functioning ignition interlock device certified by the commissioner to a person with a license issued under this section is guilty of a misdemeanor.

(b) A person who tampers with, circumvents, or bypasses the ignition interlock device, or assists another to tamper with, circumvent, or bypass the device, is guilty of a misdemeanor.

(c) The penalties of this subdivision do not apply if the action was taken for emergency purposes or for mechanical repair, and the person limited to the use of an ignition interlock device does not operate the motor vehicle while the device is disengaged.

Subd. 7. **Rulemaking.** In establishing the performance standards and certification process of subdivision 1 and the program guidelines of subdivision 2, the commissioner is exempt from chapter 14, including section 14.386. If rules are otherwise necessary to implement this section, the commissioner may adopt, amend, and repeal rules using the exempt procedures of section 14.386, except that paragraph (b) shall not apply.

EFFECTIVE DATE. Subdivisions 1 to 6 are effective July 1, 2011. Subdivision 7 is effective August 1, 2010.

Sec. 14. Minnesota Statutes 2008, section 609.131, subdivision 2, is amended to read:

Subd. 2. Certain violations excepted. Subdivision 1 does not apply to a misdemeanor violation of section 169A.20; 171.09, subdivision 1, paragraph (e); 171.306, subdivision 6; 609.224; 609.2242; 609.226; 609.324, subdivision 3; 609.52; or 617.23, or an ordinance that conforms in substantial part to any of those sections. A violation

14.1 described in this subdivision must be treated as a misdemeanor unless the defendant
14.2 consents to the certification of the violation as a petty misdemeanor.

14.3 **EFFECTIVE DATE.** This section is effective July 1, 2011.

14.4 Sec. 15. **RULEMAKING.**

14.5 The commissioner may adopt, amend, or repeal rules as needed to administer
14.6 Minnesota Statutes, section 169A.55, subdivision 4, using the exempt procedures of
14.7 Minnesota Statutes, section 14.386, except that paragraph (b) shall not apply.

14.8 **EFFECTIVE DATE.** This section is effective August 1, 2010.

14.9 Sec. 16. **REPEALER.**

14.10 Minnesota Statutes 2008, sections 169A.54, subdivision 11; 169A.55, subdivision
14.11 1; 171.30, subdivision 2c; and 171.305, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, and 11, are
14.12 repealed effective July 1, 2011.

169A.54 DWI CONVICTIONS, ADJUDICATIONS; ADMINISTRATIVE PENALTIES.

Subd. 11. **Chemical use assessment.** When the evidentiary test shows an alcohol concentration of 0.07 or more, that result must be reported to the commissioner. The commissioner shall record that fact on the driver's record. When the driver's record shows a second or subsequent report of an alcohol concentration of 0.07 or more within two years of a recorded report, the commissioner may require that the driver have a chemical use assessment meeting the commissioner's requirements. The assessment must be at the driver's expense. In no event shall the commissioner deny the license of a person who refuses to take the assessment or to undertake treatment, if treatment is indicated by the assessment, for longer than 90 days. If an assessment is made pursuant to this section, the commissioner may waive the assessment required by section 169A.70.

169A.55 LICENSE REVOCATION TERMINATION; LICENSE REINSTATEMENT.

Subdivision 1. **Termination of revocation period.** If the commissioner receives notice of the driver's attendance at a driver improvement clinic, attendance at counseling sessions, or participation in treatment for an alcohol problem, the commissioner may, 30 days prior to the time the revocation period would otherwise expire, terminate the revocation period. The commissioner shall not terminate the revocation period under this subdivision for a driver who has had a license revoked under section 169A.52 (license revocation for test failure or refusal); 169A.54 (impaired driving convictions and adjudications; administrative penalties); or Minnesota Statutes 1998, section 169.121 (driving under the influence of alcohol or controlled substances); or 169.123 (implied consent) for another incident during the preceding three-year period.

171.30 LIMITED LICENSE.

Subd. 2c. **Extended waiting period.** If a person's license or privilege has been revoked or suspended for a violation of section 169A.20 or sections 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections, and the person's alcohol concentration was 0.20 or greater at the time of the violation, a limited license may not be issued for a period of time equal to twice the time period specified in subdivision 2a or 2b.

171.305 IGNITION INTERLOCK DEVICE.

Subdivision 1. **Definition.** "Ignition interlock device" or "device" means breath alcohol ignition equipment designed to prevent a motor vehicle's ignition from being started by a person whose alcohol concentration exceeds the calibrated setting on the device.

Subd. 3. **Performance standards.** The commissioner shall specify performance standards for ignition interlock devices, including standards relating to accuracy, safe operation of the vehicle, and degree of difficulty rendering the device inoperative. The interlock ignition device must be designed to operate from a 12-volt DC vehicle battery and be capable of locking a motor vehicle's ignition when a minimum alcohol concentration of 0.020 grams of ethyl alcohol per 210 liters of breath is introduced into the device. The device must also require a breath sample to determine alcohol concentration at variable time intervals ranging from five to 30 minutes while the engine is running. The device must also be capable of recording information for later review that includes the date and time of any use of the vehicle or any attempt to use the vehicle, including all times that the vehicle engine was started or stopped and the alcohol concentration of each breath sample provided.

Subd. 4. **Certification.** The commissioner shall certify ignition interlock devices that meet the performance standards and may charge the manufacturer of the ignition interlock device a certification fee. A manufacturer who submits a device for certification must provide an application for certification on a form prescribed by the department.

Subd. 5. **Issuance of limited license.** The commissioner may issue a limited license to a person whose driver's license has been canceled and denied due to an alcohol or controlled substance-related incident under section 171.04, subdivision 1, clause (10), under the following conditions:

- (1) at least one-half of the person's required abstinence period has expired;
- (2) the person has successfully completed chemical dependency treatment and is currently participating in a generally recognized support group based on ongoing abstinence; and

APPENDIX

Repealed Minnesota Statutes: 10-4314

(3) the person agrees to drive only a motor vehicle equipped with a functioning and certified ignition interlock device.

Subd. 6. **Monitoring.** The ignition interlock device must be monitored for proper use and accuracy by an entity approved by the commissioner.

Subd. 7. **Payment.** The commissioner shall require that the person issued a limited license under subdivision 5 pay all costs associated with use of the device.

Subd. 8. **Proof of installation.** A person approved for a limited license must provide proof of installation prior to issuance of the limited license.

Subd. 9. **Misdemeanor.** (a) A person who knowingly lends, rents, or leases a motor vehicle that is not equipped with a functioning ignition interlock device to a person with a limited license issued under subdivision 5 is guilty of a misdemeanor.

(b) A person who tampers with, circumvents, or bypasses the ignition interlock device, or assists another to tamper with, circumvent, or bypass the device, is guilty of a misdemeanor.

(c) The penalties of this subdivision do not apply if the action was taken for emergency purposes or for mechanical repair, and the person limited to the use of an ignition interlock device does not operate the motor vehicle while the device is disengaged.

Subd. 10. **Cancellation of limited license.** The commissioner shall cancel a limited license issued under this section if the device registers a positive reading for use of alcohol or the person violates any conditions of the limited license.

Subd. 11. **Program standards.** The program standards applicable to section 171.306 also apply to this section.